

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

LAWRENCE SAYLES,

Plaintiff,

v.

No. 05-2424 B

KENNETH MOSS and
CLASSIC TOWING & RECOVERY, INC.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION,
GRANTING IN PART MOTION OF DEFENDANTS TO DISMISS,
DISMISSING CASE WITH PREJUDICE AND DENYING
REQUEST FOR ADDITIONAL SANCTIONS

Before the Court is the March 28, 2006 motion of the Defendants, Kenneth Moss and Classic Towing & Recovery, Inc., to dismiss this case for failure to comply with orders of the Court and for additional sanctions, including attorneys' fees. On July 24, 2006, pursuant to an order of reference, Magistrate Judge Tu M. Pham entered a report and recommendation recommending that this case be dismissed with prejudice pursuant to Rule 37 of the Federal Rules of Civil Procedure, which permits imposition of sanctions, including dismissal, for failures to comply with discovery orders. The report sets forth a thorough and accurate assessment of the applicable law, which need not be repeated here, and recounts numerous efforts on the part of the Defendants and the Court to effect the pro se Plaintiff's compliance with procedural rules and to move this case forward, all to no avail despite repeated warnings by the Court that dismissal could result. The recommendation was based on the Plaintiff's failure to cooperate in discovery, comply with Court orders, respond to two show cause orders issued by this Court and to appear before the Court as directed. The Plaintiff has also

failed to file an objection to the report and recommendation, the time for which has expired. Therefore, the magistrate judge's report and recommendation is hereby ADOPTED and the motion to dismiss is GRANTED. This matter is, therefore, DISMISSED. See Fed. R. Civ. P. 37(b)(2), (c) & (d).

The magistrate judge further recommended that the Defendants' request for additional sanctions, including attorneys' fees, be denied. As the Defendants have failed to object to the recommendation of the magistrate judge, it is hereby ADOPTED and the request for additional sanctions is DENIED.

IT IS SO ORDERED this 18th day of August, 2006.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE